

TO: Chief Elected Officials  
Steering Committee Members

FROM: Craig E. Hartzer  
Commissioner

DATE: March 30, 1999

SUBJ: DWD Communication 98-49  
Criteria for Local Plan Approval and  
Plan Modification Circumstances

RE: Job Training Partnership Act and Workforce  
Investment Act

**Purpose**

To provide the criteria for:

- (1) approval of the local plan of service and include the circumstances under which a plan modification is required pursuant to the Job Training Partnership Act (JTPA); and
- (2) approval of the local workforce investment plan and include the circumstances under which a plan modification is required pursuant to the Workforce Investment Act (WIA.)

**Rescission**

DWD Communication 97-47, released March 27, 1998.

**Content**

A. Local Plan Approval Criteria -

1. JTPA

Pursuant to Section 105(b)(1) of the JTPA, "The Governor shall approve the job training plan or modification unless he finds that --

- corrective measures for deficiencies found in audits or in meeting performance standards from previous years have not been taken or are not acceptably underway;
- the entity proposed to administer the program does not have the capacity to administer the funds;
- there are inadequate safeguards for the protection of funds received;
- the plan or modification does not comply with a particular provision or provisions of the Act or regulations of the Secretary under this Act; or

- the plan or modification does not comply with the criteria under sections 121(b) 205, and 265 for coordinating activities under this Act with related program activities."

The criteria that DWD will use in determining if the legal requirements for approval of the local plan of service pursuant to JTPA have been met are attached and indicated as JTPA criteria.

## 2. WIA

Pursuant to Section 117(d) of WIA, "A local plan submitted to the Governor. . shall be considered to be approved . . . unless the Governor makes a written determination during the 90-day period that:

- (1) deficiencies in activities carried out under this subtitle have been identified, through audits conducted under section 184 or otherwise, and the local area has not made acceptable progress in implementing corrective measures to address the deficiencies; or
- (2) the plan does not comply with this title."

Further, the draft interim regulations at 20 CFR 661.375(B) clarify the legislation by indicating, " The Governor must review completed plans and must approve all such plans within ninety days of their submission, unless the Governor determines in writing that:

- (1) there are deficiencies identified in local workforce investment activities carried out under this subtitle that have not been sufficiently addressed; or
- (2) the plan does not comply with Title I of WIA and these regulations, including the required consultations and public comment provisions."

The criteria that the State will use in determining if the legal requirements for approval of the local workforce investment plan pursuant to WIA have been met are attached and indicated as WIA criteria.

## B. Local Plan Modification Criteria

### 1. JTPA

In accordance with Section 104(c) and Section 105(a)(2) of JTPA, and 20 CFR Part 628.420(e)(1) and (2), the Department of Workforce Development (DWD) is establishing policy regarding what constitutes "substantial deviation" from an approved local plan of service. These plan deviations may result from changes in local labor market conditions or

other factors. The circumstances under which a JTPA local plan of service modification is required include:

- It is the second year of the biennial planning cycle. The local plan of service must be modified prior to the second year of the biennial planning cycle to update the budget, descriptions of job training activities, estimates of customers to be served, and other plan components.
- There is a change of 50 percent or more in any of the following estimates:
  - Number of participants to be served under Title IIB or IIC.
  - Costs per positive termination for Title IIC youth.
  - Number of Title IIB or IIC terminations.
- The method of selecting service providers, which will require a modification to the approved procurement plan, is changing.
- Title II funding is being transferred which results in a cumulative funding change of 20 percent or more in the Title II allocation.

Pursuant to Section 105(a)(2) of the Act, ". . . "Any modification shall be published not later than 80 days before it is effective and shall be submitted to the Governor in accordance with such section."

## 2. WIA

The draft interim regulations at 20 CFR 660.380 indicate: "The Governor must establish procedures governing the modification of local plans. Situations in which modifications may be required by the Governor include significant changes in local economic conditions, changes in the financing available to support WIA title I and partner-provided WIA services, or a need to revise strategies to meet performance goals."

The circumstances under which a WIA local workforce investment plan modification is required shall include significant changes in local economic conditions, changes in the financing available to support WIA Title I and partner-provided WIA services, or a need to revise strategies to meet performance goals. The WIB and chief elected official may determine additional circumstances under which to modify the local plan.

Questions concerning the policy contained in this DWD Communication document may be addressed to Jennifer Biddle, Planning Analyst, at 317/232-7459.

**Effective Date**

DWD Communication  
March 27, 1998  
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Upon receipt.

**Closing Date**  
July 1, 2004.

**Action**  
Local administrators are directed to implement the policy contained in this document.

attachment  
CEH:JMB/plncrit2.wp5

## **Standards for Local Plan Approval**

The Department of Workforce Development (DWD) will review the following criteria in determining if the legal requirements have been met for approval of the local plan. The criteria appropriate for each funding source are identified:

### **Job Training Partnership Act**

1. Corrective measures for deficiencies found in audits or in meeting performance standards from previous years have not been taken or are not acceptably underway

Factors DWD will consider in determining the adequacy of corrective measures include:

- Corrective measures as defined in audit and/or monitoring resolution determinations, reports, and responses issued since the last approved local plan have been implemented.
- Payment arrangements and/or repayment of any/all disallowed costs resulting from the local council's resolution process and/or other final procedure have been entered into.
- Payment arrangements with any/all subrecipients which have been assessed disallowed costs as a result of the resolution process and/or final procedures have been collected and/or entered into.
- Corrective measures to meet performance standards missed in the previous program year(s) as reflected by improved performance measured in quarterly performance data have been implemented.

2. The entity proposed to administer the program does not have the capacity to administer the funds.

Adequate capacity to administer funds is demonstrated by:

- Timely, accurate, current, and complete disclosure of funds is provided through the financial management information system.
- Records that identify adequately the source and application of funds for sponsored activities to include proper control/coordination of participant/fiscal interface and subcontract tie-in to each funded program by participant are maintained.
- Effective control over and accountability for all funds, property, and other assets is maintained.
- A validated participant management information system is maintained.

- Written procedures that ensure the reasonableness and allocability of costs in accordance with applicable provisions and the approved cost allocation plan are maintained.

3. There are inadequate safeguards for the protection of funds received.

Evidence of adequate safeguards include:

- Language indicating each local elected official accepting liability for disallowed costs is contained in the agreement between the local elected officials and the local council and such agreement has been approved by DWD.
- Compliance with the required audit, monitoring, and resolution activities as required by DWD has been achieved.
- The required audit, monitoring and resolution activities of their subrecipients as directed by DWD have been conducted.
- Insurance policies and/or bonds, as required by DWD grant agreement(s) and/or applicable laws and regulations, have been obtained, and evidence of same has been submitted to and approved by DWD.

4. The local plan or modification does not comply with a particular provision or provisions of the Act or regulations of the Secretary under this Act.

Compliance includes:

- All requested clarifications to the local plan or modification have been responded to in a timely manner and DWD has approved such clarifications.
- Compliance with all applicable federal and state laws, regulations, and policies has been achieved for the local plan or modification.

5. The local plan or modification does not comply with the criteria under sections 121(b), 205, and 265 for coordinating activities under this Act with related program activities.

Compliance includes:

- The State Human Resource Investment Council, upon review of the two-year local plan, has certified the consistency of such plan against the Governor's Coordination and Special Services Plan.
- A formal agreement(s) with local education agencies in accordance with Section 265(a) of JTPA has been achieved.

- Consistency with Section 102 of JTPA has been achieved.
- Coordination with the Workforce Partnership Plan entities as described in the local plan or modification has been achieved.
- Coordination with DWD's Workforce Development Center initiative as described in the local plan or modification has been achieved.

#### Workforce Investment Act

1. There are deficiencies identified in local workforce investment activities carried out under Title I of WIA that have not been sufficiently addressed.

Factors DWD will consider in determining the adequacy of corrective measures include:

- Corrective measures as defined in audit and/or monitoring resolution determinations, reports, and responses issued since the last approved local plan have been implemented.
- Payment arrangements and/or repayment of any/all disallowed costs resulting from the local council's resolution process and/or other final procedure have been entered into.
- Payment arrangements with any/all subrecipients which have been assessed disallowed costs as a result of the resolution process and/or final procedure have been collected and/or entered into.
- Corrective measures to meet performance standards missed in the previous program year(s) as reflected by improved performance measured in quarterly performance data have been implemented.

2. The local plan or modification does not comply with Title I of WIA and the regulations, including the required consultations and public comment provisions.

Compliance includes:

- All requested clarifications to the local plan or modification have been responded to in a timely manner and DWD has approved such clarifications.
- Compliance with all applicable federal and state laws, regulations, and policies has been achieved for the local plan or modification
- All the appropriate individuals/organizations have been consulted with in developing the local plan or modification and public comment has been obtained.